

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS ROGER WHITE, JR.,
and PATRICIA CAULEY on
behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

SAMSUNG ELECTRONICS
AMERICA, INC.

Defendants.

Civil Action No. 17-1775 (MCA) (JSA)

Hon. Madeline Cox Arleo, U.S.D.J.

Hon. Jessica S. Allen, U.S.M.J.

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**DECLARATION OF MACK PRESS
IN OPPOSITION TO SAMSUNG ELECTRONICS AMERICA, INC.'S MOTION TO
COMPEL INDIVIDUAL ARBITRATION AND STRIKE PLAINTIFFS' CLASS CLAIMS**

I, Mack Press, hereby declare:

1. I am admitted to practice before this Court and am counsel to Plaintiffs in the above-captioned action. Unless otherwise stated, the facts set forth below are based on my own personal knowledge, and if called upon to testify, I could and would testify competently thereto.

2. On April 11, 2018, I served upon counsel for Samsung Electronics America, Inc. ("Samsung") Plaintiffs Rule 26 Disclosure Statement (the "Initial Disclosures"). A true and correct copy of the Initial Disclosures is attached hereto as Plaintiffs Exhibit 1.

3. Plaintiffs Exhibit 1 includes, *inter alia*, the following language:

Rule 26(a)(1)(A)(ii) – Disclosure No. 2: A copy– or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Response to Disclosure No. 2: Pursuant to the Courts’ 03/28/18 Order, within 30 days from that Order, Plaintiffs shall identify when, where, and how each television was acquired along with copies of all documents in Plaintiffs’ possession relevant to their claims in this action. The Make, Model and Serial Number for each of Plaintiffs’ televisions are as follows: Thomas Roger White, Jr.: Samsung, Model No. UN55KU6300F, Serial No. 05HX3CAHB11790N; LG, Model No. 42LE5400, Serial No. 004RMBWDM973; Sony, Model No. KDL-40W650D, Serial No. 5018352; Samsung, Model No. UN32J5500AF, Serial No. 03NL3CGG90593M. Christopher Mills: Samsung, Model LN40A550P3FXZA, Serial No. ALXR3CSQ911405X.

(Emphasis in original).

4. Information provided in the April 11, 2018 Initial Disclosures included correct make, model, and serial numbers for Samsung Smart TVs owned by plaintiffs Thomas Roger White (“White”) and Christopher Mills (“Mills”).

5. On April 14, 2020, *more than two years after the Initial Disclosures were served*, Samsung’s counsel indicated that one of the *two* serial numbers provided for Samsung Smart TVs owned by White inadvertently omitted a number. *See* Declaration of Simon Frankel (“Frankel Decl.”), Exhibit 1 (ECF No. 143-5). Samsung’s counsel raised no defect with information provided in the Initial Disclosures for White’s other Samsung Smart TV or for Mills’ Samsung Smart TV.

6. On April 27, 2020, within days of the defect being pointed out for one of the two Smart TVs owed by White, Plaintiffs cured the defect. *See* Frankel Decl., Exhibit 3.

7. Prior to or during the March 28, 2018 conference, when Samsung sought this Court’s assistance to obtain the make, model and serial numbers, Samsung’s counsel did not inform Plaintiffs’ counsel or the Court that such information would help to identify whether Plaintiffs had agreed to an arbitration provision.

8. Plaintiffs filed this action on March 16, 2017. *See* ECF No. 1. Samsung did not inform Plaintiffs of the arbitration provision at issue here until May 11, 2020, more than three years later. *See* Frankel Decl. Exhibit 4.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 31, 2021 in Commack, New York.

/s/
MACK PRESS